REMARKS

Claims 1-16 are currently pending. The applicants note with appreciation the acknowledgement of foreign priority under 35 U.S.C. § 119. In the Office action the examiner objected to the specification and objected to claims 7 and 15 related to use of trademarked terms. The Office action also rejected claims 1-16 under 35 U.S.C. § 103(a) as being unpatentable over Nobutsugu (U.S. Patent No. 4,658,919) in view of Tomokazu (JP 10-161880). The applicants respond as follows.

Specification

With respect to use of trademarked names, according to the USPTO website TCP/IP is not trademarked, variations on NetBIOS/NetBEUI [sic] trademarks have been abandoned by their owners and IPX as a data communication protocol trademark has been abandoned by Novell. AppleTalk™ is a trademark of Apple Computer, Inc. The specification has been amended to correct the inadvertent omission and to include a generic description of the protocols as packet data protocols. The applicants appreciate the examiner's notation of this oversight. No new matter has been added.

Claim Objections

Claims 7 and 15 were objected to for the use of trade names in the claims. The claims have been amended to remove vendor-specific language. It is noted that TCP/IP is a public domain protocol and is not a trademark of any company. In view of the amendments to claims 7 and 15, the applicants request the objection be lifted.

Section 103(a) Rejections

Claims 1-16 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Nobutsugu (U.S. Patent No. 4,658,919) in view of Tomokazu (JP 10-161880). Independent claims 1 and 9 have been amended to recite that the combination weighing apparatus is programmed over the Internet. Amended claims 7 and 15, further recite the use of a TCP/IP packet data protocol for communication. Neither Tomokazu nor Nobutsugu discloses the use of the Internet or TCP/IP for reprogramming a weighing apparatus, therefore a combination of the two would lack that limitation. Further, Nobutsugu

teaches only operation of a device. The applicants contend that for reasons of cost and complexity remote reprogramming of the device is not an obvious step beyond Nobutsugu and that therefore there is no motivation to combine Nobutsugu with Tomokazu. In order to establish a prima facie case of obviousness required by a 35 U.S.C. § 103(a) rejection, there must be actual evidence of a suggestion to modify a prior art reference or to combine two prior art references, and the suggestion to combine or modify the prior art must be clear and particular. *In re Dembiczak*, 50 U.S.P.Q.2d 1614, 1617 (Fed. Cir. 1999). In order to establish a prima facie case of unpatentability, particular factual findings demonstrating the suggestion to combine or modify must be made. The applicants contend that such a suggestion does not exist in the references cited and that the 35 U.S.C. § 103(a) rejection should be lifted.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the examiner is respectfully requested to pass this application to issue. The examiner is invited to contact the applicants representative with any questions related to this response or the application as a whole. No fees beyond the enclosed petition for extension of time are believed due, but should there be, the Commissioner is authorized to debit Deposit Account 113-2855.

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Respectfully submitted,

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